

**IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 73-11973 IN THE)
NAME OF USDI – BUREAU OF LAND)
MANAGEMENT)
_____)**

Hearing Officer: Gary Spackman

FRED PRICE	1387 S. VINNELL WAY	BLM-ISO
Alan Bittner	BOISE, ID 83713 1206 S. Challis St Salmon ID 83467	BLM-Salmon

DAVE ROSENKRANCE 801 BLUE MOUNTAIN ROAD
CHALLIS, IDAHO 83226 BCM-CHALLIS

JON MARVEL Box 1602 Hailey 83333 21218

TESTIMONY LOG

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 73-11973 IN THE)
NAME OF USDI - BUREAU OF LAND)
MANAGEMENT)

March 22, 2007

Hearing Officer: Gary Spackman

TAPE NUMBER 1

TAPE TO	LOCATION FROM	TESTIMONY DESCRIPTION
0014	0046	Gary - Introduction and beginning.
0047	0053	Alan Bittner - Blm - introduction
0054	0057	Gary.
0058	0062	Jon Marvel - W.W.P. - introduction
0063	0106	Gary
0107	0174	Alan Bittner - Testimony - Introduced ~~Exhibit~~ Exhibit #1
0175	0197	Jon Marvel - objection.
0198	0259	Gary - troubled by lead exhibit
0260	0308	Alan Bittner - withdraw applicant exhibit #1
0309	0319	Gary - Exhibit #2 - Received
0320	0462	Alan Bittner - Exhibit #2 - explanation
0463	0470	Gary - way water will be delivered?
0471	0533	Alan - describe the way water is piped.
0534	0537	Jon - Question
538	0547	Gary - explanation of Question - Allowing?
0548	0548	Jon - will wait to cross
0549	0575	Alan - Explanation of markings on exhibit #2
0576	0579	Gary - mark in B1
0580	0587	Alan - Black is what is proposed
0588	0590	Gary - how is water delivered
0591	0601	Alan - buried 1 1/4 pipe
0602	0623	Gary - Gravity? will it be maintained?
0624	0656	Alan - don't believe WWP were aware. Lack of facts
0657	0669	Gary Received Exhibit Applicant #2
0670	0853	Alan - examine protest - introduce Exhibit #3

TAPE TO	LOCATION FROM	TESTIMONY DESCRIPTION
0854	0859	Gary- Received Exhibit #3 (Applicant)
0860	1123	Alan- Spring-clarification. - Point #3 of Protest Introducing Exhibit Applicant #4
1124	1130	Gary- Received into evidence (#4)
1131	1519	Alan- continue to narrate against Protest Project is used by both agencies (F.S & BLM) Is there unauthorized use? Point #6 - no basis for injury. Insufficient of water? - no measurement. No w/R associated. Prehearing issue - integrity? source is developed.
1520	1528	Gary- hydrologic integrity what is it?
1529	1537	Alan- Mr. Marvel should maybe answer
1538	1546	Gary- issue - what is it.
1547	1774	Alan- what he recalls- additional water would harm source - no w/R held by anyone at this source! - Fencing spring source. Can not impose this issue.
1775	1870	Gary- Response letter from BLM regards Protest. do not find Rosenkrance's letter Bittner - 2005 letter by Rosenkrance also
1871	1876	Back on - Gary
1877	1899	Alan- Include 2 nd time to protest
1900	1901	Gary- Received Exhibit Applicant #7
1901	1920	Alan- Exhibit #8
1921	1924	Gary- Received Exhibit Applicant #8
1925	2160	Alan- Prehearing - fencing? issue - Going over the 6 issues of protests. Alan- offer exhibit two(2)- master title plat's exhibit #5
2161	2162	Gary- show what?
2162	2190	Alan- show ownership, BLM & FS land
2191	2211	Gary- Significance of plat?
2212	2259	Alan- explanation of title Plats

TAPE TO	LOCATION FROM	TESTIMONY DESCRIPTION
2260	2275	Gary - This map doesn't expressly show ownership?
2276	2319	Alan - Plats are produced by BLM and in Record.
2320	2353	Gary - cross examination on exhibit #5
2354	2360	Alan - network server in Boise - got map
2361	2388	Gary - 2 nd document
2389	2415	Alan - Key and guide for these - should be included. anything unmarked are BLM - dotted F.S.
2416	2423	Gary - more clarification
2424	2437	Alan - 1 st plat - BLM unmarked - dotted F.S.
2438	2439	Gary - unmarked
2439	2444	Alan - everything inside dotted lines is F.S.
2445	2460	Gary
2461	2464	Jon - Question?
2465	2491	Alan 14N, 21E. - Proposed troughs. See 28. 29. 32 BLM limits
2492	2505	Jon - Object to Exhibit #5 - extremely confusing
2506	2514	Gary - over ruled - will accept - exhibit #5
2515	2778	Alan - review application for permit Introducing Exhibit #6 -
2779	2782	Gary - adjudicated allotment
2783	2864	Alan - Explanation of adjudicated AUM in court case in 1960's - historic process inside BLM.
2865	2873	Gary - Received into evidence #6
2874	2862	Alan - ownership on A4P - #11 A. Question. Requesting Dismiss
2963	2966	Gary -
2967	3012	Jon - Cross Examine for Alan Bittner
3013	3059	Alan - purple line shows allotment
3060	3062	Jon - Confusing
3063	3463	Alan - Fence lines - More Questions
3464		Gary - Any further testimony - Gary Questioning Alan Bittner
3825	3829	Jon - wants to question more.

TAPE TO	LOCATION FROM	TESTIMONY DESCRIPTION
3830	3878	Gary - concerns of Gary - additional water.
3879	3896	Alan - Reason - same cattle - Deminus
3897	3896	Gary - Valved? may need additional water
4070	4070	Break for recess
4071	4127	Alan - availability of water - 60 yrs of management - no measurement - enough water to supply
4128	4457	Jon - Further questions to Alan - Entering Protest Exhibit "A" in regards to fencing - Questioning Alan on F.S. water right.
4458	4487	Gary - Release Alan - BLM Rested
4488	5124	Jon - W.W.P. gives testimony - Local Public Interest! (LPI)
5125	5158	Alan cross examines Jon Marvel.
5159	5215	Jon - further comments - L.P.I. - sufficient water
5216	5247	Gary - Question - Jon - Admission of Protest Exhibit "A"
5248	5259	Gary - Alan - takes stand -
5260	5387	Alan - Rebutal - Spring sinks maximum use of Spring water.
5388	5649	Gary - further questions - Record is closed based on testimony - Talk about concerns
5650	5859	Jon - Spring area concerns - maintained?
5860	5889	Gary - discussion - 60 days -